

Chapter 87

JUNKED AND ABANDONED MOTOR VEHICLES

Article I. General Provisions

Sec. 87-1	State Law Applicable.
Sec. 87-2	Definitions.
Sec. 87-3	Enforcement.
Sec. 87-4	Effect on Other Statutes of Ordinances.
Sec. 87-6	Penalties.
Secs. 87-7—87-9	Reserved.

Article II. Abandoned Vehicles

Sec. 87-10	Authority to Take Possession.
Sec. 87-16—87-19	Reserved.

Article III. Junk Vehicles.

Sec. 87-20	Junked Vehicles a Public Nuisance.
Sec. 87-21	Nuisance Prohibited.
Sec. 87-22	Complaint and Investigation.
Sec. 87-23	Notice and Hearing.
Sec. 87-24	Order by Judge.
Sec. 87-25	Duty of Owner or Occupant.
Sec. 87-26	Vehicles not to be Made Operable.
Sec. 87-27.	Notice to TXDOT.
Sec. 87-28.	Affirmative Defenses.
Sec. 87-29.	Administration.
Sec. 87-30.	Removal.
Sec. 87.31.	Enforcement.

JUNKED AND ABANDONED MOTOR VEHICLES

ARTICLE I. GENERAL PROVISIONS

Sec. 87-1. State Law Applicable. The Texas Transportation Code Chapter 683, as amended, is adopted by reference and the provisions of said Chapter shall control and take precedence over any conflicting provisions of this Chapter.

Sec. 87-2. Definitions. As used in this Chapter, the following terms shall have the meaning indicated below:

Abandoned Motor Vehicle means a vehicle that:

- (i) is inoperative and over five years old and is left unattended on public property for more than 48 hours; or
- (ii) has remained illegally on public property for a period of more than 48 hours;
- (iii) has remained on private property without the consent of the owner or person in control of the property for more than 48 hours; or
- (iv) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours.

Junked Vehicle means a motor vehicle, aircraft, or watercraft, that:

- (1) is self-propelled; and
- (2) is:
 - (A) wrecked, dismantled or partially dismantled, or discarded; or
 - (B) inoperable and has remained inoperable for more than:
 - (i) 72 consecutive hours, if the vehicle is on public property; or
 - (ii) 30 consecutive days, if the vehicle is on private property; and
- (3) is:
 - (A) a motor vehicle that displays an expired license plate or does not display a license plate; or
 - (B) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or
 - (C) a watercraft that:
 - (i) does not have lawfully on board an unexpired certificate of number; and
 - (ii) is not a watercraft described by Section 31.055, Texas Parks and Wildlife Code.

Junked Vehicle Parts means parts from a junked vehicle.

Antique Vehicle means a passenger car or truck that is at least 25 years old.

Motor Vehicle Collector means a person who: (1) owns one or more antique or special interest vehicles; and (2) acquires collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

Special Interest Vehicle means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Motor Vehicle means any motor vehicle subject to registration pursuant to the Certificate of Title Act, *Chapt. 501, Tex. Trans. Code*.

Outboard Motor means an outboard motor subject to registration under *Chapt. 31, Parks & Wildlife Code*.

Officer means any person designated by the City Council as authorized to investigate and enforce suspected violations of City ordinances or regulations.

Person means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

City means the City of Lexington, Texas.

City Council means the city council of the City of Lexington, Texas.

Sec. 87-3. Enforcement. The administration of this Ordinance shall be the responsibility of the Police Department or such department, officer or employee of the City designated by the City Council; provided that the Chief of Police, or such other salaried, full-time employee of the City as designated by the City Administrator, is authorized to administer and supervise the procedures, sections and provisions of this Ordinance applying to abandoned and junk vehicles. Whoever is so authorized may enter upon private property for the purposes specified in the s Ordinance to examine motor vehicles or parts thereof, obtain information as to the identity of motor vehicles and to remove or cause the removal of a motor vehicle or parts thereof declared to be nuisance pursuant to this Ordinance. Upon request by the officer designated pursuant to this Section, the municipal court may issue orders necessary to the enforcement of this Ordinance.

Sec. 87-4. Effect on Other Statutes of Ordinances. Nothing in this Chapter shall affect statutes that permit immediate removal of vehicles left on public property that obstruct traffic or otherwise create an imminent threat to health and safety.

Sec. 87-6. Penalties. Any person convicted of violating any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed Two Hundred dollars (\$200.00) and each day of such violation shall be a separate violation.

Secs. 87-7—87-9. Reserved.

ARTICLE II. ABANDONED VEHICLES

Sec. 87-10 Authority to Take Possession. The police Department is authorized to take into custody any abandoned motor vehicle, watercraft or outboard motor found on public or private property, using the wrecker rotation.

Sec. 87-16—87-19 Reserved.

ARTICLE III. JUNK VEHICLES.

Sec. 87-20. Junked Vehicles a Public Nuisance. A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way, is detrimental to the safety and welfare of the general public; tends to reduce the value of private property; invites vandalism; creates a fire hazard; is an attractive nuisance creating a hazard to the health and safety of minors; and is detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the City. As such, these vehicles are declared to be a public nuisance.

Sec. 87-21. Nuisance Prohibited. It shall be unlawful for any person to maintain, possess, or locate a junked vehicle or parts or portions thereof, within the City of Lexington, in violation of this Article.

Sec. 87-22. Complaint and Investigation.

- (a) Any person may file a complaint alleging the existence of a junked vehicle, or part thereof, as a public nuisance in the City. The complaint must:
 - (1) Be in writing;
 - (2) Provide sufficient details about the alleged nuisance so that its location can be determined;
 - (3) Be signed by the complainant; and
 - (4) Be filed with the Municipal Court.
- (b) On his/her own knowledge or on the basis of a written complaint, an officer shall investigate the alleged existence of a junked vehicle, or part thereof, on private or public property or a public right-of-way within the City.

- (c) The officer may enter private property where the alleged junked vehicle, or part thereof, is located in order to examine the public nuisance, to obtain information to identify the nuisance and to remove or direct removal of the nuisance.

Sec. 87-23. Notice and Hearing.

- (a) If it is determined by the officer that a nuisance, as defined herein, exists in the City, the officer shall give notice or cause notice to be given in writing. The notice shall state: the nature of the public nuisance; that the nuisance must be removed and abated not later than the tenth (10th) day after the date on which the notice was personally delivered or mailed and that a request for a hearing must be made before that ten (10) day period expires. The notice must be personally delivered, sent by certified mail with a five (5) day return requested, or delivered by the United State Postal Service with signature confirmation service to:
 - (1) The last known registered owner of the nuisance;
 - (2) Each lien holder of record of the nuisance; and
 - (3) The owner or occupant of:
 - (A) The property on which the nuisance is located; or
 - (B) If the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- (b) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance, or if the owner is located by other means, personally delivered.
- (c) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the eleventh (11th) day after the date of the return.
- (d) A hearing must be held, prior to the removal of the junked vehicle or the part thereof as a public nuisance, before the Municipal Court Judge, when such hearing is requested by the owner or occupant of the premises on which said vehicle is located, not earlier than the eleventh (11th) day after service of notice to abate the nuisance. At the hearing, the junked vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, an order requiring removal of the nuisance must include:
 - (1) for a motor vehicle, the vehicle's:
 - (A) description;
 - (B) vehicle identification number; and

(C) license plate number, if available;

(2) for an aircraft, the aircraft's:

(A) description; and

(B) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and

(3) for a watercraft, the watercraft's:

(A) description; and

(B) identification number as set forth in the watercraft's certificate of number.

(e) If, after written notice has been given, as described in this Article, and continuing through the hearing, the owner relocates the junked vehicle, or a part thereof, to another location in the City of Lexington, Texas the relocation has no effect on the hearing if the vehicle, or a part thereof, constitutes a public nuisance at the new location.

Sec. 87-24. Order by Judge.

(a) After the hearing is held by the Municipal Court Judge as herein provided, if the Judge finds that such a nuisance as herein defined exists, the Judge shall order the owner or occupant of the premises on which said vehicle is located to remove such junked vehicle within ten (10) days after said order is given to such owner or occupant of the premises on which said vehicle is located.

(b) It shall be unlawful and a violation of this Article for any person to whom such order is given to fail or refuse to comply therewith and to fail to remove such junked vehicle within the time provided by said order.

Sec. 87-25. Duty of Owner or Occupant. In the event the owner or occupant of the premises does not request a hearing, as herein provided, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten (10) days after the date of the receipt of such notice.

Sec. 87-26. Vehicles not to be Made Operable. After a vehicle has been removed in accordance with or under the terms and provisions of this Article, it shall not be reconstructed or made operable.

Sec. 87-27. Notice to TXDOT. Notice shall be given by the officer to the Texas Department of Transportation (“TXDOT”) within five (5) days after the date of removal identifying the vehicle or part thereof.

Sec. 87-28. Affirmative Defenses. It is an affirmative defense to prosecution under this Article if a junked vehicle or junked vehicle part:

- (a) Is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
- (b) Is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
 - (1) maintained in an orderly manner;
 - (2) not a health hazard; and
 - (3) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.
- (c) Is farm machinery or equipment whose primary purpose is for agricultural or ranching activities.

Sec. 87-29. Administration. The administration of this Article shall be by regularly salaried, full-time employees of the City of Lexington, except that the removal of junked vehicles or parts thereof from property may be by any other duly authorized person.

Sec. 87-30. Removal. After ten (10) days after notice has been delivered to the owner or occupant of the premises on which a junked vehicle is located if a hearing is not requested, or if a hearing is requested, after ten (10) days after an order requiring the removal of such junked vehicle has been served upon or delivered to the owner or occupant of the premises on which said vehicle is located, the officer, if said nuisance has not been abated, may remove or cause to be removed the vehicle which was the subject of such notice to a scrap yard, a motor vehicle demolisher, or any suitable site operated by the City, for processing as scrap or salvage pursuant to authority provided in the Texas Transportation Code, § 683.078 or any successor statute for junked vehicle disposal.

Sec. 87-31. Enforcement.

- (a) The City of Lexington, Texas, shall have the power to administer and enforce provisions of this Article as may be required by governing law. Any person violating any provision of this Article is subject to suit for injunctive relief as well as prosecution for criminal violations.

- (b) Any person who violates any provision of this Article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum not to exceed Two Hundred and No/100 Dollars (\$200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.
- (c) No culpable mental state shall be required for a conviction under this Article.
- (d) Nothing in this Article shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Article and to seek remedies as allowed by law, including but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates the Article or to require specific conduct that is necessary for compliance with the Article;
 - (2) A civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of this Article and after receiving notice committed acts in violation of the Article or failed to take action necessary for compliance with the Article; and
 - (3) Other available relief.

Chapters 88 through 89 Reserved